

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 2096 SB 2447

February 20, 2013

SUMMARY OF BILL: Adds cooperation with the appropriate federal department in any reasonable manner as may be necessary to implement the Patient Protection and Affordable Care Act, P.L. 111-148 (the Act), as amended, to the extent required or permitted by law to the duties of the Bureau of TennCare. Imposes an additional tax of two and two-tenths cents (2.2¢) on each cigarette, proceeds of which must be deposited in a newly established Medicaid Expansion Fund, to be expended to fund the expansion of medical assistance authorized by the Act.

ESTIMATED FISCAL IMPACT:

Increase State Revenue – \$175,088,100/FY14-15 and Subsequent Years

**Increase State Expenditures – \$30,849,600/TennCare/FY16-17
\$73,709,400/TennCare/FY17-18
\$94,630,700/TennCare/FY18-19
\$134,439,900/TennCare/FY19-20
\$171,829,500/TennCare/FY20-21 and Subsequent Years**

**Increase Federal Expenditures – \$1,000,101,000/TennCare/FY14-15
\$1,135,858,000/TennCare/FY15-16
\$1,203,136,000/TennCare/FY16-17
\$1,266,462,300/TennCare/FY17-18
\$1,361,226,900/TennCare/FY18-19
\$1,447,206,400/TennCare/FY19-20
\$1,546,465,800/TennCare/FY20-21 and Subsequent Years**

Increase Local Revenue – \$3,085,000/FY14-15 and Subsequent Years

Assumptions:

- Title II, § 2001(a)(1) of the Act (42 U.S.C. § 1396a(a)(10)(A)(i)(VIII)), requires expansion of Medicaid coverage eligibility to adult individuals under the age 65, who are not pregnant or disabled, with income that does not exceed 133 percent of the federal poverty level (138% with the mandatory 5 percent income disregard). Under the Act, if

a state chose not to expand coverage, then the state would not be compliant with 42 U.S.C. § 1396a and could lose Medicaid funding pursuant to 42 U.S.C. § 1396c.

- The United States Supreme Court held that the mandatory expansion of the population groups eligible for Medicaid coverage is unconstitutional in *National Federation of Independent Business v. Sebelius*. If a state chooses not to expand the state's Medicaid coverage to the newly eligible expansion population group, then the state will not jeopardize Medicaid funding for coverage of individuals eligible under federal law prior to enactment of the Act for that reason.
- The bill requires the Bureau of TennCare (the Bureau) to cooperate with the appropriate federal department in any reasonable manner as may be necessary to implement the Act, as amended, to the extent required or permitted by law. The bill will require the Bureau to expand coverage to the newly eligible expansion population group.
- Title II, § 2001(y) of the Act (42 U.S.C. § 1396d(y)), increases the Federal medical assistance percentage (FMAP) applied to spending by states that expand Medicaid coverage eligibility to the expansion population with respect to medical assistance provided to that population. In federal calendar quarters 2014, 2015, and 2016 the increased FMAP will be 100 percent.
- In 2017, the FMAP will decrease to 95 percent and the state will incur 5 percent of the costs. In 2018, the FMAP will decrease to 94 percent and the state will incur 6 percent of the costs. In 2019, the FMAP will decrease to 93 percent and the state will incur 7 percent of the costs. In 2020 and subsequent years, the FMAP will decrease to 90 percent and the state will incur 10 percent of the costs.
- According to the Bureau, if Medicaid coverage eligibility is expanded in Tennessee, then there would be approximately 161,900 newly eligible TennCare enrollees in FY14-15 resulting in an increase in federal expenditures of \$1,000,100,900 to cover 100 percent of the cost for these new enrollees.
- The following table provides a breakdown of the estimated total costs (based on a 6.7 percent inflation rate) between state and federal funds should the state choose to expand the Medicaid population under the Affordable Care Act:

Fiscal Year	Estimated Number of Enrollees	PMPM Cost	Total Cost	State Cost	Federal Cost
FY14-15	161,900	\$ 514.773	\$ 1,000,100,984	\$ -	\$ 1,000,100,984
FY15-16	172,300	\$ 549.361	\$ 1,135,857,972	\$ -	\$ 1,135,857,972
FY16-17	175,400	\$ 586.272	\$ 1,233,985,593	\$ 30,849,640	\$ 1,203,135,953
FY17-18	178,500	\$ 625.664	\$ 1,340,171,777	\$ 73,709,448	\$ 1,266,462,329
FY18-19	181,700	\$ 667.702	\$ 1,455,857,679	\$ 94,630,749	\$ 1,361,226,930
FY19-20	184,971	\$ 712.565	\$ 1,581,646,359	\$ 134,439,940	\$ 1,447,206,418
FY20-21	188,300	\$ 760.442	\$ 1,718,295,325	\$ 171,829,532	\$ 1,546,465,792

Assumptions related to the cigarette tax:

- Pursuant to Tenn. Code Ann. § 67-4-1004(a) and Tenn. Code Ann. § 67-4-1004(d)(1), cigarette tax is a \$0.62 tax per pack of 20 cigarettes.
- Pursuant to Tenn. Code Ann. § 67-4-1004(b), there is an additional \$0.0005 enforcement and administration fee per pack of 20 cigarettes.
- The total taxes and fees currently imposed are \$0.6205 per pack of 20 cigarettes.
- Based on data provided by the Department of Revenue, it is estimated that, in FY12-13, cigarette tax collections were approximately \$262,038,127 and additional fee collections were \$215,946, for a total of \$262,254,073. Assuming negative growth of 2.3 percent in FY13-14 and negative 0.4 percent in FY14-15, total cigarette tax collections in FY14-15 are assumed to be approximately \$255,197,340.
- The total number of 20-pack cigarettes sold in FY14-15 is estimated to be 411,276,938 ($\$255,197,340 / \0.6205). This number is assumed to remain constant into perpetuity under current law.
- The average price per pack of 20 cigarettes in Tennessee is estimated to be \$5.00. Increasing the cigarette tax rate by 2.2 cents per cigarette, or \$0.44 per pack of 20 cigarettes for a total tax of \$1.0605 ($\$0.6205 + \0.44), is estimated to increase the price of cigarettes to an average of \$5.44 per 20-pack for the consumer. This represents an 8.80 percent increase in the price of cigarettes [$(\$5.44 - \$5.00) / \$5.00$].
- Based on various studies, the price elasticity of demand for cigarettes is estimated to be negative 0.35. The 8.80 percent increase in the price of cigarettes is estimated to result in a 3.08 percent decrease in the quantity of cigarettes consumed ($8.80\% \times -0.35$).
- The number of 20-pack cigarettes sold as a result of this bill in FY14-15 is estimated to be 398,609,608 [$411,276,938 \times (100.00\% - 3.08\%)$]. This number is assumed to remain constant into perpetuity.
- The total cigarette tax state collections as a result of this bill in FY14-15 and subsequent years is estimated to be \$422,725,489 ($398,609,608 \times \1.0605).
- The total recurring increase in state cigarette tax collections in FY14-15 and subsequent years is estimated to be \$167,528,149 ($\$422,725,489 - \$255,197,340$).
- The current state sales tax rate is 7.0 percent; the average local option sales tax rate is estimated to be 2.5 percent.
- The total taxable sales of cigarettes is expected to increase by \$112,051,577 as a result of this bill [$(398,609,608 \times \$5.44) - (411,276,938 \times \$5.00)$].
- The recurring increase in state sales tax revenue beginning in FY14-15 is estimated to be \$7,843,610 ($\$112,051,577 \times 7.0\%$); the recurring increase in local option sales tax revenue beginning in FY14-15 is estimated to be \$2,801,289 ($\$112,051,577 \times 2.5\%$).
- Pursuant to Tenn. Code Ann. § 67-6-103(a)(3)(A), local governments receive 4.603 percent of state sales tax revenue as state-shared sales tax revenue.
- Pursuant to Tenn. Code Ann. § 67-6-103(q), no portion of revenue derived from the 0.5 percent sales tax rate increase, from 5.5 percent to 6.0 percent (effective April 1, 1992), or the 1.0 percent sales tax rate increase, from 6.0 percent to 7.0 percent (effective July 15, 2002), shall be distributed to local government.
- The effective rate of apportionment to local government pursuant to the state-shared allocation is estimated to be 3.617% [$(5.5\%/7.0\%) \times 4.603\%$].

- The net recurring increase in state sales tax revenue beginning in FY14-15 is estimated to be \$7,559,907 [$\$7,843,610 - (\$7,843,610 \times 3.617\%)$].
- The total recurring increase in local sales tax revenue beginning in FY14-15 is estimated to be \$3,084,992 [$\$2,801,289 + (\$7,843,610 \times 3.617\%)$].
- The total recurring increase in state revenue beginning in FY14-15 is estimated to be \$175,088,056 ($\$167,528,149 + \$7,559,907$).

IMPACT TO COMMERCE:

Other Impact – The estimated impact to commerce in the state as a result of the proposed legislation cannot be reasonably determined due to a number of unknown factors.

Assumptions:

- Whether the state decides to expand the Medicaid population or not, there could be varying degrees of economic impact to the health care industry as a whole in the state of Tennessee including but not limited to health insurance companies, hospitals, clinics, individual health care providers, and pharmacists.
- According to the Bureau of TennCare, there are approximately 161,900 individuals who would be eligible for healthcare under the expansion.
- Under this bill, these individuals would now be enrolled in TennCare and could receive health care services that they are not currently seeking which could result in increased business for health insurance companies contracted with the state and health care providers within the TennCare network.
- Some of these individuals could have obtained health insurance coverage through a private insurance company. These individuals would no longer be uninsured and could receive health care services that they are not currently seeking. Depending on the health status of these individuals, this could result in a positive or negative financial impact to the individual health insurance companies.
- Health care providers could incur economic impacts depending on the type of insurance and the medical coverage that is obtained by these individuals after receiving coverage versus the type of care the individual is receiving as an uninsured individual. Also, the cost for services can differ depending on health coverage, network discounts, etc.
- Due to a number of unknown factors which include, but are not limited to, the number of individuals who would obtain health insurance through the private sector, the health status of those individuals, the type of health insurance plan that would be offered, and the variation in costs for health care services, a reasonable estimate of the impact the proposed legislation may have on commerce is undeterminable.
- Increasing the cigarette tax, and thus the price of cigarettes, will result in a decrease in the quantity of cigarettes consumed. As a result, net income of cigarette manufacturers and businesses selling cigarettes is expected to decrease, as their revenues will decrease by a greater amount than the expected decrease in their expenditures. The amount of any

such decrease in net income cannot be estimated with reasonable certainty and, combined with impacts to commerce of expanding Medicaid as proposed under this bill, the total impact on commerce and jobs in Tennessee as a result of this bill cannot be reasonably determined.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

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